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OFFICE OF PETITIONS

In re Application of	:
Kim, et al.	:
Application No. 10/617,230	: DECISION DISMISSING PETITION
Filed: July 11, 2003	: UNDER 37 CFR § 1.183
Attorney Docket No. 1567.1048	:
	:

This is a decision on "PETITION UNDER 37 CFR 183 TO WAIVE REQUIREMENTS OF 37 CFR 1.64", filed November 1, 2006, which is being treated as a petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.48(a)(3).

The petition under 37 CFR 1.48(a) is **DISMISSED**.

The petition under 37 CFR 1.183 is **DISMISSED**.

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petitions Under 37 CFR 1.48(a) and 37 CFR 1.183" and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 11, 2003, with a 37 CFR 1.63 declaration naming inventors Seok Kim, Youngju Jung, and Jan-Dee Kim. With the instant petition, applicants have submitted a declaration naming inventors Kim, Jung, and Kim, in addition to previously unnamed inventors Yunsuk Choi and Soo Seok Choi. The new declaration is executed by inventors Choi, Choi, and Jan-Dee Kim. However, petitioner states that inventors Seok Kim and Jung have left the employment of the assignee, and therefore their signatures have not been obtained.

37 CFR 1.48(a) requires:

- (1) A request to correct the inventorship that sets forth the desired inventorship change;
- (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the inventorship error occurred without deceptive intention on his or her part;
- (3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
- (4) The processing fee set forth in § 1.17(i); and
- (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (2), (4), and (5) above.

Under 37 CFR 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is not yet appropriate in this instance. Petitioner has not provided a showing of his inability to obtain Seok Kim's and Jung's signature on the newly filed declaration, merely a statement that they have left the employment of the assignee. On renewed petition, petitioner must set forth the steps taken to locate Kim and Jung. See MPEP 201.03.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
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Telephone inquiries related to this decision may be directed to
the undersigned at (571) 272-3207.

Cliff Congo

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